S.B. CIVIL WRIT PETITION NO. 5629/2006.

DATE OF ORDER : 06.12.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Ravindra Singh for the petitioner/s.

By this petition for writ, a challenge is given to the judgment dated 07.12.2005 passed by the Rajasthan Civil Services Appellate Tribunal, Jaipur, whereby the learned Tribunal rejected the appeal preferred by the petitioner assailing validity and propriety of the order dated 14.11.2005 whereby the petitioner is transferred from the Government Upper Primary School, Purohito-ki-Madri to Government Primary School, Khajuri, Girwa, Udaipur. The order of transfer was subsequently amended by transferring the petitioner to Government Upper Primary School, Bichdi, Panchayat Samiti, Girwa, Udaipur. The learned Tribunal while rejecting the appeal held that the order of transfer has been made in administrative exigency and there is no violation of any Statute. It is also asserted by the Tribunal that the petitioner is posted either in Udaipur City or the place near to it for last number of years.

While giving challenge to the judgment dated 07.12.2005, it is stated by counsel for the petitioner that the learned Tribunal failed to appreciate that wife of the petitioner is

also in government service and is posted at Government Upper Primary School, Suraj Pole, Udaipur and according to existing policy of transfer, if both the spouse are in government service, then they should be allowed to remain at one place.

No reply to the writ petition has been filed on behalf of the respondents.

Heard learned counsel for the parties.

The only contention of counsel for the petitioner is that the transfer of the petitioner has been effected in violation of the policy introduced by the Government of Rajasthan for making transfer of a government servant.

It is settled that validity of an order of transfer can be examined, if it is in violation of a Statute, if it is an out-come of malice or is shockingly arbitrary. In the instant matter, no such circumstance exists. The learned Tribunal after considering all the contentions raised, reached at the conclusion that the transfer of the employee was made in administrative exigency and there was no violation of a Statute. The Tribunal also considered the fact that the employee concern is posted at Udaipur from last number of years. It is also appropriate to be

noticed that the "Bichdi" where the petitioner is now transferred is also quite close to Udaipur.

The judgment impugned, therefore, does not suffer from any error that may warrant interference by this Court under Article 226 and 227 of the Constitution of India. The writ petition, therefore, is dismissed.

(GOVIND MATHUR)J.

Anil/